UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5
CHICAGO, ILLINOIS

IN THE MATTER OF	)	DOCKET NO. R5 7003-5-07-00~~2~~
	)	CWA1321-5-07-00_3
The Brandt Pike Oil Pipeline	)	Proceeding Under Section 7003
and Distribution Facilities	)	of the Resource Conservation
	)	and Recovery Act, as amended,
BP Products North America Inc.	)	42 U.S.C. § 6973, and Section 311
BP Oil Pipeline Company	)	of the Clean Water Act, 42 U.S.C. § 1321
Buckeye Terminals, LLC	)	
Inland Corporation	)	
CITGO Petroleum Corporation	)	
Sunoco, Inc (R&M)	)	
	)	
Respondents	)	
	)	

I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Order on Consent ("Order") issued by the United States Environmental Protection Agency (EPA) is entered into voluntarily by BP Products North America, Inc., BP Oil Pipeline Company, Buckeye Terminals, LLC, Inland Corporation, CITGO Petroleum Corporation and Sunoco, Inc. (R&M) (collectively, "Respondents") under Section 7003 of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. § 6973, and Sections 311(c) and (e) of the Clean Water Act (CWA), 33 U.S.C. § 1321(c) and (e).

2. The Director of the Superfund Division, EPA Region 5, is authorized to issue orders under Section 311 of the CWA based on a series of delegations and an executive order originating from the President of the United States. The Director of the Land and Chemicals Division, EPA Region 5, is authorized to issue orders under Section 7003 of RCRA based on a series of delegations.

3. This Order requires the Respondents to perform certain Work as defined in this Order and to reimburse Response Costs incurred by the United States as defined in this Order and paid out of the Oil Spill Liability Trust Fund.

4. Oil containing benzene and methyl tertiary-butyl ether (MTBE) and other constituents and additives of oil has been released from the Brandt Pike Oil Pipeline and

Distribution Facilities into the soil and groundwater in a manner constituting disposal under RCRA.

5. EPA has determined that the groundwater contamination by oil, and its constituents, benzene and MTBE, in the Study Area may present an imminent and substantial endangerment to health or the environment.

6. EPA has also determined that the oil contamination of the groundwater in the Study Area may present an imminent and substantial threat to the public health or welfare of the United States, including fish, shellfish, and wildlife, public and private property, habitat, and other living and nonliving natural resources under the jurisdiction or control of the United States, because of an actual or threatened discharge of oil into a navigable water in violation of Section 311(b) of the CWA, 33 U.S.C. § 1321(b).

7. The Respondents shall conduct the Work to investigate the potential imminent and substantial endangerment to public health or the environment and to public welfare from oil, including the MTBE and benzene groundwater contamination, which has been found in the Study Area's groundwater.

8. EPA has notified the State of Ohio of this Order pursuant to Section 7003(a) of RCRA, 42 U.S.C. § 6973(a) and Section 311(e)(1)(B) of the CWA, 33 U.S.C. § 1321(e)(1)(B).

9. Respondents' consent to this Order is not an admission of liability nor an admission of EPA's findings of facts or conclusions of law and determinations set forth in Sections I through V of this Order. Respondents acknowledge EPA's authority to issue this Order and consent to its terms. Respondents further agree not to contest EPA's findings of facts or conclusions of law and determinations set forth in Sections I through V of this Order, the basis or validity of this Order, or its terms in any proceeding to enforce the Order.

II. PARTIES BOUND

10. This Order applies to EPA and the Respondents and any additional parties joined to this Order in the future. Any change in ownership or corporate status of any Respondent, and/or any additional parties joined to this Order in the future, including but not limited to a transfer of assets or real or personal property comprising all or a portion of the Brandt Pike Oil Pipeline and Distribution Facilities, will not alter the responsibilities of the Respondents under this Order. Respondents are responsible for carrying out all actions required of them by this Order.

11. Respondents shall ensure that their contractors, subcontractors, and agents comply with this Order. Respondents will be liable for any violations of this Order by their employees, agents, contractors, or subcontractors.

III. DEFINITIONS

12. Unless otherwise expressly provided herein, terms used in this Order which are defined in the CWA, the Oil Pollution Act of 1990, 33 U.S.C. §§ 2701 *et seq.* ("OPA"), or RCRA or in regulations promulgated under these statutes shall have the meaning assigned to them in the CWA, OPA or RCRA or in such regulations. Whenever terms listed below are used in this Order or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

a. "CWA" shall mean the Clean Water Act, 33 U.S.C. §§ 1251, *et seq.*

b. "Day" shall mean a calendar day. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

c. "Effective Date" shall be the effective date of this Order as provided in Section XXII.

d. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

e. "OEPA" shall mean the Ohio Environmental Protection Agency and any successor departments or agencies of the State.

f. "OPA" shall mean the Oil Pollution Act of 1990, 33 U.S.C. §§ 2701 *et seq.*

g. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

h. "Order" shall mean this Administrative Order on Consent and all appendices attached hereto (listed in Section XX). In the event of conflict between this Order and any appendix, this Order shall control.

I. "Paragraph" shall mean a portion of this Order identified by an Arabic numeral.

j. "Parties" shall mean EPA and Respondents.

k. "RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.* (also known as the Resource Conservation and Recovery Act).

l. "Respondents" shall collectively mean BP Products North America Inc. (BP), BP Oil Pipeline Company, Buckeye Terminals, LLC (Buckeye), CITGO Petroleum Corporation (CITGO), Inland Corporation and Sunoco, Inc.(R&M).

m. "Response Costs" shall mean all costs not inconsistent with the NCP, including, but not limited to, direct and indirect costs, that the United States has incurred or will incur and has paid or will pay out of the Oil Spill Liability Trust Fund in connection with the oversight or implementation of this Order (e.g., reviewing or developing plans, reports and other items pursuant to this Order, verifying the Work, or otherwise implementing, overseeing, or enforcing this Order, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, community relations and costs incurred pursuant to Paragraphs 73-74 to secure access to property).

n. "Section" shall mean a portion of this Order identified by a Roman numeral.

o. "Brandt Pike Oil Pipeline and Distribution Facilities shall mean the four petroleum products distribution facilities and the portion of the Inland Pipeline within the boundaries of the four petroleum products distribution facilities which transports petroleum products to and from the facilities and is depicted generally in Appendix A.

p. "Study Area" shall mean those offsite areas that are: (1) between the Brandt Pike Oil Pipeline and Distribution Facilities and the Great Miami River or the Dayton Wellfield and (2) approximately one-quarter mile to the south of the Brandt Pike Oil Pipeline and Distribution Facilities and includes all areas where groundwater contamination may have migrated or may reasonably be expected to migrate in the future from the Brandt Pike Oil Pipeline and Distribution Facilities in amounts which may pose an imminent or substantial endangerment to human health or the environment. The areal extent of the Study Area is depicted generally on the map attached to this Order as Appendix B. However, notwithstanding the map in Appendix B, which is for illustrative purposes only, if there is a conflict between Appendix B and this definition, the terms of this definition shall control.

q. "State" shall mean the State of Ohio.

r. "Work" shall mean all activities Respondents are required to perform under this Order.

IV. FINDINGS OF FACT

Based on the information known to EPA at the time of issuance of this Order, including the administrative record in this matter, EPA finds that:

13. There are four active petroleum products distribution facilities at the Brandt Pike Oil Pipeline and Distribution Facilities which includes a pipeline system that transports a variety of petroleum products to and from the facilities as generally depicted in Appendix A. Each of the four distribution facilities receives its petroleum products via the Inland Pipeline. Each of the facilities then pipes the petroleum products to large above-ground storage tanks and dispenses petroleum products to tank trucks or other pipelines for further distribution.

14. The petroleum distribution facilities and pipeline are located in an area that is a mix of residential, industrial and commercial uses.

15. BP Products North America, Inc. owns and operates the petroleum products distribution facility located at 621 Brandt Pike, Dayton, Ohio. BP Products North America Inc.'s petroleum products distribution facility has 21 petroleum products storage tanks with a total capacity of approximately 11,553, 270 gallons of petroleum products. From approximately 1938 to 1987, the facility at 621 Brandt Pike was owned and operated by corporate predecessors to BP Products North America, Inc. BP Products North America, Inc. began operating the facility in 1987 and continues to own and operate the facility currently.

16. BP Oil Pipeline Company is the operator of the Inland Pipeline that transports petroleum products to the petroleum products distribution facilities.

17. Inland Corporation is the owner of the Inland Pipeline.

18. Buckeye Terminals, LLC, owns and operates the petroleum products distribution facility located at 801 Brandt Pike, Dayton, Ohio. Buckeye Terminals LLC's petroleum distribution facility has 15 petroleum products storage tanks and the capacity to store 6,699,404 gallons of petroleum products. Buckeye Terminals, LLC acquired the petroleum products distribution facility from Equilon Enterprises LLC, a company affiliated with Shell Oil Company, in 2004. Shell Oil Company and its predecessors operated the petroleum products facility at 801 Brandt Pike from approximately 1949 to 1998. From 1998 to 2004, the facility was operated by Equilon Enterprises LLC.

19. CITGO Petroleum Corporation owns and operates the petroleum products distribution facility located at 1800 Farr Avenue, Dayton, Ohio. The facility has 17 petroleum products storage tanks with the capacity to store 8,933,270 gallons of petroleum products. CITGO Petroleum Corporation acquired the facility from Unoven, a company affiliated with CITGO, which had operated a petroleum products distribution facility at that location since 1993. Prior to 1993, the facility was owned and operated by UNOCAL since approximately 1951. CITGO Petroleum Corporation has owned and operated the facility since May 1997.

20. From approximately 1939 through February 8, 2002, Sunoco, Inc (R&M) or its corporate predecessors owned and operated the petroleum products distribution facility at 1708 Farr Avenue, Dayton, Ohio, which is currently owned by SUNOCO Partners Marketing and Terminals, L.P. The facility has 16 petroleum products storage tanks with a total capacity of 7,928,292 gallons of petroleum products.

21. Respondents' petroleum products distribution facilities and the Inland Pipeline described in paragraphs 15 through 20 are hereinafter collectively referred to as the Brandt Pike Oil Pipeline and Distribution Facilities or the Facilities.

22. The Brandt Pike Oil Pipeline and Distribution Facilities are approximately one-half mile from the Miami River.

23. Beneath the Brandt Pike Oil Pipeline and Distribution Facilities and the Study Area is a sole source aquifer that provides water for the City of Dayton. Areas of the Brandt Pike Oil Pipeline and Distribution Facilities and Study Area are within Dayton's wellfield protection area.

24. Approximately one-half mile north and downgradient of the Brandt Pike Oil Pipeline and Distribution Facilities is the City of Dayton's drinking water wellfield, the Miami Wellfield.

25. The Miami Wellfield provides water to approximately 440,000 persons in the Dayton area.

26. Groundwater in the Study Area moves generally to the north in the direction of the Miami River and toward the Miami Wellfield.

27. There is a residential neighborhood to the north and northwest of the Brandt Pike Oil Pipeline and Distribution Facilities in close proximity and downgradient to the Facilities.

28. Respondents' and/or their predecessors' handling or disposal of oil at the Brandt Pike Oil Pipeline and Distribution Facilities has contributed to oil being released into the soil and groundwater.

29. In 1986, OEPA, Emergency Response, responded to a report of an oil spill at the Brandt Pike Oil Pipeline and Distribution Facilities. Monitoring wells were installed by the Respondents or their corporate predecessors under the direction of OEPA. The monitoring wells indicated that there was widespread petroleum-related groundwater contamination by benzene, toluene, ethylbenzene and xylene (BTEX) beneath the Facilities. Free phase diesel fuel, jet fuel and gasoline were found floating on the water table in areas of each of the Respondents' oil distribution facilities and pipeline in such quantities to indicate that significant releases of oil products have occurred to the groundwater at each of the facilities. From 1986 to 1988, free phase product was detected on the groundwater table beneath the Brandt Pike Oil Pipeline and Distribution Facilities in quantities up to 3.31 feet in apparent thickness of free phase product. Wells upgradient of the Facilities detected no free phase product.

30. A petroleum contaminant recovery system was commenced in 1989 by one or more of the Respondents or their predecessors. The recovery system removed 16,000 gallons of released oil from the groundwater. However, some of the petroleum contamination in the groundwater was not captured and moved downgradient beyond the Facilities' boundaries.

31. By 1996, levels of BTEX had decreased at the Brandt Pike Oil Pipeline and Distribution Facilities leading one or more of the owners and operators of the Facilities to decrease operation of or shut down the recovery systems with notice to OEPA.

32. However, in April 1998, sampling at the Brandt Pike Oil Pipeline and Distribution Facilities detected a four inch layer of light non-aqueous phase liquid (LNAPL) in a soil vapor recovery well, SVE-9, which is located at the northwestern perimeter of the BP Facility. At or about the same time, LNAPL was also detected within sixty feet of SVE-9.

33. Groundwater sampling conducted in 1998 revealed a BTEX concentration of 63,300 parts per billion ("ppb") in monitoring well SU-2.

34. In 1998, free phase hydrocarbons were also found in monitoring wells near the Inland Pipeline manifold system.

35. One or more of the petroleum recovery systems at the Brandt Pike Oil Pipeline and Distribution Facilities was restarted in 1999 and approximately 5,500 gallons of oil contaminants were recovered from the water table.

36. A sample of the free phase hydrocarbons was collected from Soil Vapor Extraction Well SVE-9 in April 1998. The sample was reported to be a mixture of 85% gasoline, 15% diesel fuel and 1.7% of the fuel additive, MTBE.

37. In 2003, MTBE was detected at levels as high as 1,300 ppb (using test method 8021) in soil samples collected at depths of 22-24 feet within ten feet of the Inland pipeline at BP's facility.

38. MTBE is a synthetic, volatile, colorless, organic ether, with a turpentine-like taste and odor. The Chemical Abstracts Service ("CAS") registry number for MTBE is 1634-04-4. There are no known naturally occurring sources of MTBE. MTBE contains 18.2 percent oxygen by weight. MTBE was approved as a gasoline additive in 1979. MTBE has been used extensively in gasoline as an oxygenate in reformulated gasoline designed to produce cleaner burning fuel.

39. EPA's December 1997, Drinking Water Advisory: Consumer Acceptability Advice and Health Effects Analysis on Methyl Tertiary-Butyl Ether (MTBE)("1997 EPA Advisory") (Section 7.1) states: "the weight of evidence indicates that MTBE is an animal carcinogen, and the chemical poses a carcinogenic potential to humans (NSTC, 1997, page 4-26)." EPA has identified one of MTBE's metabolites, formaldehyde, as a probable human carcinogen (Group B1). No federal Maximum Contaminant Level (MCL) for MTBE has been adopted. EPA's Drinking Water Advisory, issued in 1997, set a level of 20 to 40 ppb of MTBE for taste and odor. MTBE has been demonstrated to cause hepatic, kidney and central nervous system toxicity, peripheral neurotoxicity and cancer in animals. EPA is currently conducting a risk assessment on the effects on humans of drinking MTBE-contaminated water. Ohio EPA has established a

generic potable use standard for MTBE in groundwater at 40 ppb of MTBE for facilities that qualify for its Voluntary Action Program.

40. When released into the environment, petroleum product constituents and additives such as benzene and MTBE are solid wastes, as that term is used in RCRA Section 7003, 42 U.S.C. § 6973.

41. Groundwater sampling in 2001 indicated the level of MTBE in the groundwater beneath the Brandt Pike Oil Pipeline and Distribution Facilities was in excess of 500 parts per billion (ppb) with one sample in 2001 detecting 940 ppb of MTBE. Sample results from April 2006 indicated MTBE in groundwater under the Facilities at levels of up to 30 ppb.

42. The City of Dayton installed two monitoring wells north of the Brandt Pike Oil Pipeline and Distribution Facilities on January 31, 2006. Sampling of these monitoring wells has detected levels of MTBE in excess of 85 ppb and benzene in excess of 164 ppb indicating groundwater containing oil, MTBE and benzene is moving downgradient in the direction of the residential neighborhood to the north of the Facilities and in the direction of the Miami River and the City of Dayton's Miami Wellfield. The City of Dayton reported that MTBE has been detected on or about April 30, 2007 in a groundwater monitoring well, 13S, in the Miami Wellfield at a level of 0.280 ppb.

43. Benzene has been repeatedly detected in the groundwater beneath the Brandt Pike Oil Pipeline and Distribution Facilities. Most recently, in groundwater sampling conducted in 2007, benzene was detected beneath the Brandt Pike Oil Pipeline and Distribution Facilities in excess of 500 ppb.

44. The Safe Drinking Water Act, 42 U.S.C. §§ 330f *et seq.* ("SDWA") Maximum Contaminant Level ("MCL") for benzene in drinking water is 5 ppb. Benzene is a Group A (known human) carcinogen, causing leukemia in exposed individuals.

45. Benzene has also been detected at levels in excess of the MCL in the Study Area's groundwater downgradient of the Brandt Pike Oil Pipeline and Distribution Facilities.

46. The handling and/or disposal of oil at the Brandt Pike Oil Pipeline and Distribution Facilities has created a condition of a commingled subsurface groundwater contamination plume of oil containing MTBE and benzene which appears to be moving downgradient in the general direction of a residential neighborhood, the Miami River and the City of Dayton's Miami Wellfield.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the findings of fact in Section IV, above, and the administrative record in this matter, EPA has determined that:

47. Each Respondent is a "person" as defined by Section 311(a)(7) of CWA, 33 U.S.C. § 1321(a)(7) and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

48. Each Respondent is an "owner or operator" of one or more of the Brandt Pike Oil Pipeline and Distribution Facilities which are "facilities" as defined by Section 311(a)(6) of CWA, 33 U.S.C. § 1321(a)(6).

49. Actual or threatened "discharges" as defined in Section 311(a)(2) of the CWA, 33 U.S.C. § 1321(a)(2) have occurred at or from the Brandt Pike Oil Pipeline and Distribution Facilities.

50. "Oil" as defined in Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1) is currently present at and around the Brandt Pike Oil Pipeline and Distribution Facilities and the Study Area.

51. The Miami River is a "navigable water" of the United States as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

52. The groundwater contamination by oil and its constituents in the Study Area may pose an imminent and substantial threat to the public health or welfare of the United States because of an actual or threatened discharge of oil from a facility in violation of Section 311(b) of CWA, 33 U.S.C. § 1321(b).

53. The oil, MTBE and benzene that have been found in groundwater beneath the Brandt Pike Oil Pipeline and Distribution Facilities is discarded material, and thus each is a "solid waste" as defined in Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

54. The Respondents' and/or their predecessors' past or present handling or disposal of solid waste at the Brandt Pike Oil Pipeline and Distribution Facilities has contributed to the presence of commingled oil, benzene and MTBE contamination in groundwater at the Brandt Pike Oil Pipeline and Distribution Facilities which may present an imminent and substantial endangerment to health or the environment because the contamination plume may be moving downgradient in the general direction of (1) a residential area where some residents may continue to use private wells, (2) the Miami River and (3) the City of Dayton's Miami Wellfield which pumps groundwater from the sole source aquifer, part of which underlies the Study Area.

55. The actions required by this Order may be necessary to protect human health or the environment.

VI. ORDER ON CONSENT

The Respondents shall comply with the following requirements:

Designation of Contractor, Project Coordinator, and On-Scene Coordinator

56. Respondents shall notify EPA in writing within five (5) days of the Effective Date of this Order of the name, address, phone number, electronic mail address and qualifications of their Project Coordinator. The EPA Project Coordinator will be Steven Renninger, On-Scene Coordinator (OSC), U.S. EPA Region 5 Emergency Response Branch, 26 West Martin Luther King Drive (G41), Cincinnati, OH 45268. EPA may also designate an Alternate Project Coordinator. Each Project Coordinator shall be responsible for overseeing the implementation of this Order. EPA and Respondents have the right to change their respective Project Coordinators. The other parties must be notified in writing at least ten (10) days prior to the change.

Work to Be Performed

57. Investigation

a) Respondents shall conduct an investigation of oil, MTBE and benzene contamination within the Study Area to determine the nature and extent of oil, MTBE and benzene contamination in the Study Area related to releases from the Brandt Pike Oil Pipeline and Distribution Facilities, including but not limited to the horizontal and vertical extent of oil, MTBE and benzene groundwater contamination in the Study Area. At a minimum, the investigation will include:

(i) a review of existing data to develop an appropriate scope and methodology for completing the investigation including the components of oil that should be used as analytes;
(ii) the preparation of an Investigation and Fate and Transport Evaluation Work Plan for review and approval by EPA;
(iii) the performance of a field investigation to evaluate the presence of oil (which may be measured during initial sampling by the presence of benzene, toluene, ethylbenzene and xylene (BTEX)), MTBE and benzene in the Study Area related to releases from the Brandt Pike Oil Pipeline and Distribution Facilities, including the installation, development, and sampling of monitoring wells screened to detect oil, MTBE and benzene;
(iv) establishment of a groundwater gradient;
(v) a determination of the extent of the oil, benzene and MTBE present in the groundwater in the Study Area related to releases from the Brandt Pike Oil Pipeline and Distribution Facilities and
(vi) preparation of a Field Investigation Report which includes all data and evaluations required by the approved Work Plan for the investigation.

The investigation may utilize in part and where appropriate for the investigation existing wells screened to detect MTBE and benzene. Respondents shall submit an Investigation Work and Fate and Transport Evaluation Plan to EPA for approval within forty-five (45) days of the Effective Date and initiate the approved Investigation Work Plan within thirty (30) days of receipt of notice of approval from EPA. The Field Investigation Report shall be submitted to EPA within sixty (60) days of receipt of all field analytical data.

b) Fate and Transport Analysis.

Within ninety (90) days of submittal of the Field Investigation Report, Respondents shall conduct and complete an analysis of the fate and transport of groundwater contamination in the Study Area related to releases from the Brandt Pike Oil Pipeline and Distribution Facilities and submit a written Fate and Transport Analysis report to EPA for review and approval. The report shall:

(i) analyze the impact of the existing source control and petroleum recovery measures at the Brandt Pike Oil Pipeline and Distribution Facilities and how such measures impact the fate and transport of the groundwater contamination from the Brandt Pike Oil Pipeline and Distribution Facilities,
(ii) analyze and evaluate the results of the investigation in paragraph 57(a), including all analytical data, and
(iii) analyze the fate and transport of oil, MTBE and benzene in groundwater in the Study Area with respect to the following potential downgradient receptors:

1. Any residences with private wells
2. Miami River, and
3. Dayton Miami Wellfield.

Respondents shall include an analysis of how changes in operation, use or scale of the current source control measures may impact the fate and transport of groundwater contamination to the above receptors.

c) Vapor Intrusion Investigation Plan. Within sixty (60) days of the submittal of the Field Investigation Report pursuant to paragraph 57(a), if benzene is present in the shallow groundwater within the Study Area which is related to releases from the Brandt Pike Oil Pipeline and Distribution Facilities and beneath any residential area, commercial buildings or occupied buildings where the general public may be present at levels at or exceeding the MCL for benzene, Respondents shall submit to EPA for approval a Vapor-Intrusion Investigation Work Plan to address the potential for benzene and MTBE vapor intrusion into residences, commercial buildings or occupied buildings where the general public may be present in the Study Area and shall implement such approved Work Plan. The Vapor Intrusion investigation will be completed in a tiered approach consistent with the EPA *Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils,* EPA530-F-02-052, November 2002 or subsequently issued EPA guidance. Within thirty (30) days of EPA's approval of the Vapor-Intrusion Investigation Work Plan, Respondents shall commence implementation of the approved Vapor Intrusion Investigation Work Plan. Respondents shall submit a report to EPA regarding the results of the investigation within sixty (60) days of receipt of all analytical data from the Vapor Intrusion Investigation.

58. Deliverables. Deliverables required by this Order shall be submitted to EPA for approval or modification pursuant to Paragraph 59. Respondents shall submit the required

deliverables in accordance with the schedule for major deliverables set forth in Appendix C or by the due date specified in this Order or in schedules developed pursuant to this Order. Respondents shall submit copies of each deliverable to OEPA and the City of Dayton.

59. After review of any deliverable that is required pursuant to this Order, EPA will: (a) approve the submission, in whole or in part; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, directing that Respondents modify the submission; or (e) any combination of the above.

60. In the event of approval, approval upon conditions, or modification by EPA, pursuant to Paragraph 59(a), (b), or (c), Respondents shall proceed to take any action required by the deliverable, as approved or modified by EPA subject only to Respondents' right to invoke the Dispute Resolution procedures set forth in Section IX (Dispute Resolution) with respect to the modifications or conditions made by EPA. In the event that EPA modifies the submission to cure the deficiencies pursuant to Paragraph 59(c) and EPA determines the submission has a material defect, EPA retains its right to seek stipulated penalties, as provided in Section XI (Penalties).

61. Resubmission of Deliverable. Upon receipt of a notice of disapproval, in whole or in part, pursuant to Paragraph 59(d), Respondents shall, within (ten) 10 days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the deliverable for approval. Any stipulated penalties applicable to the submission, as provided in Section XI (Penalties), shall accrue during the ten (10) day opportunity-to-cure period or otherwise specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 59 and 60.

62. Notwithstanding the receipt of a notice of disapproval pursuant to Paragraph 59(d), Respondent shall proceed, at the direction of EPA, to take any action required by any non-deficient portion of the submission. Implementation of any non-deficient portion of a submission shall not relieve Respondents of any liability for stipulated penalties for the deficient portion of the deliverable under Section XI (Penalties).

63. In the event that a resubmitted deliverable, or portion thereof, is disapproved by EPA, EPA may again require Respondents to correct the deficiencies, in accordance with the preceding Paragraphs. EPA also retains the right to modify or develop the plan, report or other item. Respondents shall implement any action as required in a deliverable which has been modified or developed by EPA, subject only to Respondents' right to invoke the procedures set forth in Section IX (Dispute Resolution).

64. If upon resubmission, a deliverable is disapproved or modified by EPA due to a material defect, Respondents shall be deemed to have failed to submit such deliverable timely and adequately unless Respondent invokes the dispute resolution procedures set forth in Section IX (Dispute Resolution) and EPA's action to disapprove or modify a deliverable is overturned pursuant to that Section. The provisions of Section IX (Dispute Resolution) and Section XI (Penalties) shall govern the implementation of the Work and accrual and payment of any

stipulated penalties during Dispute Resolution. If EPA's disapproval or modification is upheld, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XI (Penalties).

65. All deliverables required to be submitted to EPA under this Order, shall, upon approval or modification by EPA, be incorporated into and be enforceable under this Order. In the event EPA approves or modifies a portion of a deliverable required to be submitted to EPA under this Order, the approved or modified portion shall be enforceable under this Order.

66. Unless otherwise provided in this Order, all reports, correspondence, notices, or other submittals relating to or required under this Order shall be in writing and shall be sent to the EPA Project Coordinator at the address specified in Paragraph 56, unless notice is given in writing to Respondents of a change in address. Reports, correspondence, notices or other submittals shall be delivered by U.S. Postal Service, private courier service or electronic mail. All correspondence shall include a reference to the case caption EPA Docket No. .

Quality Assurance and Sampling

67. All sampling and analyses performed under this Order shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control, data validation, and chain of custody procedures. Respondents shall develop a plan to ensure the sampling and laboratory analysis complies with EPA quality assurance/quality control guidance.

68. Upon request by EPA, Respondents shall have a laboratory analyze samples that EPA submits for quality assurance monitoring. Respondents shall provide to EPA the quality assurance/quality control procedures followed by all sampling teams and laboratories performing data collection or analysis. Respondents also shall provide analytical tracking information consistent with OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites."

69. Upon request, EPA or its authorized representatives may take split and duplicate samples of any samples collected by Respondents or their contractor or agent while performing work under this Order. Respondents shall notify EPA at least three (3) business days in advance of any sample collection. EPA may take any additional samples that it deems necessary. EPA shall notify Respondents three (3) business days in advance of its sampling activity so that Respondents may take split and duplicate samples.

Reporting

70. Progress Reports By the 15th day of each month, Respondents shall submit written progress reports to EPA, unless otherwise directed in writing by the OSC. These reports shall describe: (a) all significant developments during the preceding period, including work performed, problems encountered, and analytical data collected, and (b) developments anticipated during the

next reporting period, including a work schedule, anticipated problems, and planned resolutions of past or anticipated problems.

71. Each Respondent shall give written notice of this Order to any successor in interest at least thirty (30) days prior to transferring ownership of any part of a facility described in this Order. Each Respondent also shall notify EPA and the State at least thirty (30) days before the transfer, and shall include the name and address of the transferee. Each Respondent shall require the transferee to provide access as described in Paragraphs 73 and 74 (Access to Property and Information).

72. The OSC or Respondents, with the OSC's written approval, may request either more or less frequent reports when the activities at the Study Area or Brandt Pike Oil Pipeline and Distribution Facilities warrant a higher or lower reporting frequency.

Access to Property and Information

73. Respondents shall provide access to those areas of the Brandt Pike Oil Pipeline and Distribution Facilities they own, operate, or otherwise control and make their best efforts to obtain access to all other areas of the Brandt Pike Oil Pipeline and Distribution Facilities necessary for the implementation of this Order. In addition, Respondents shall provide or make their best efforts to obtain access to the Study Area where access is necessary to implement this Order and to all non-privileged documents related to conditions at the Brandt Pike Oil Pipeline and Distribution Facilities, Study Area and Work conducted under the Order. Respondents shall provide this access to EPA and the OEPA and their contractors and representatives. These individuals may move freely at the Brandt Pike Oil Pipeline and Distribution Facilities subject to reasonable limitations required for security and for occupational safety, and appropriate off-site areas to: interview Respondents' personnel and contractors with respect to the Work; review Respondents' progress in carrying out the Order; conduct tests, sampling or monitoring which relate to the Work; use a camera, sound recording, or other documentary equipment; and verify the reports and data submitted by Respondents to EPA. These individuals may inspect and copy all non-privileged photographs and documents, including all sampling and monitoring data, that relate to the Work performed under the Order. Respondents may request split samples, or copies of photographs, tapes, videos, or other recorded evidence created by EPA. In accordance with the requirements and procedures of 40 C.F.R. Part 2, Subpart B, Respondents may assert a claim of business confidentiality as to any photographs, video or documents obtained during any such access.

74. As described in Paragraph 73 and as determined by EPA, Respondents shall make their best efforts to obtain access to areas not owned, operated, or otherwise controlled by Respondents to perform Work required by this Order. EPA's OSC will notify Respondents when such access is required and Respondents will have fourteen (14) days (or such greater time as the OSC may specify) from the date of such notification to make their best efforts to obtain access. Best efforts shall be defined in more detail in the Investigation Work Plan and Vapor Intrusion Investigation Plan but shall include at a minimum two certified letters to an owner. Any access

agreement shall give EPA and its contractors and representatives access. If Respondents do not obtain the access agreements, they shall notify EPA immediately in writing, describing their efforts to obtain access. EPA may, at its discretion, assist Respondents in obtaining access.

Record Retention, Documentation, Availability of Information

75. Respondents must retain all documents relating to this Order for six (6) years after completing the Work required by the Order. Before destroying any documents, Respondents must notify EPA that the documents are available to EPA for inspection and, upon request, must provide the originals or copies of the documents to EPA. In addition, Respondents must provide these documents at any time before the six year period expires at the written request of EPA.

76. All documents pertaining to this Order shall be stored by Respondents in a centralized location at a location mutually approved by Respondents and EPA, to promote easy access by EPA or its representatives.

Compliance With Other Laws

77. Respondents shall perform all Work required under this Order according to all applicable local, state, and federal laws and regulations.

Emergency Response and Notification of Discharges

78. In the event of any action or occurrence during the performance of the Work that constitutes an emergency situation or may present an immediate threat to human health and the environment, Respondents shall immediately take all appropriate action to minimize such emergency or threat, and shall immediately notify the EPA's Project Coordinator. Respondents shall take such immediate and appropriate actions in consultation with EPA's Project Coordinator. Respondents shall then submit to EPA written notification of such emergency or threat within three (3) calendar days of such discovery. Respondents shall thereafter submit to EPA for approval, within twenty (20) days, a plan to mitigate this threat. EPA will approve or modify this plan, and Respondents shall implement this plan as approved or modified by EPA. In the case of an extreme emergency, Respondents may act as they deem appropriate, at their own risk, to protect human health or the environment.

Additional Work

79. EPA may determine or Respondents may propose that certain tasks are necessary in addition to or in lieu of the tasks included in any EPA-approved Work Plan when such additional Work is necessary to investigate the potential imminent and substantial endangerment to health or the environment related to the migration of groundwater contamination from the Brandt Pike Oil Pipeline and Distribution Facilities to the City of Dayton wellfields, the Great Miami River or other properties within the Study Area. EPA may determine that Respondents shall perform any such additional investigation Work and EPA will specify, in writing, the basis

for its determination that any additional investigation Work is necessary. Within fifteen (15) days after the receipt of such determination, Respondents shall have the opportunity to meet or confer with EPA to discuss any additional investigation work. Respondents shall submit for EPA approval a Work Plan within ten (10) days of Respondents' receipt of EPA's determination that any additional investigation Work is necessary, or according to an alternative schedule established by EPA. Upon approval of a Work Plan for any additional work, Respondents shall implement the Work Plan for any additional investigation Work in accordance with the schedule and provisions contained therein. The Work Plan for any additional investigation Work shall be incorporated by reference into this Order.

VII. AUTHORITY OF THE EPA ON-SCENE COORDINATOR

80. The OSC will oversee this Order's implementation. The OSC has the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by the Order, or to direct any other response action undertaken by EPA or Respondents at the Study Area. The OSC's absence from the Study Area will not cause a work stoppage unless specifically directed by the OSC.

VIII. REIMBURSEMENT OF COSTS

81. Respondents shall reimburse the United States for all Response Costs incurred by EPA, its contractors and other authorized representatives in overseeing and performing work under this Order. The United States will submit bills and accountings to Respondents for these costs.

82. Within thirty (30) calendar days of receiving a bill and accounting, Respondents shall pay those costs to the USCG by check or by electronic transfer, as directed by the OSC. Interest at a rate established in 4 C.F.R. § 102.13, pursuant to 40 C.F.R. § 13.11(a), will begin to accrue on the unpaid balance thirty-one (31) days after payment was due notwithstanding any dispute or an objection to the costs. Respondents shall send the check to:

United States Coast Guard - Oil Pollution
Re: FPN E04503
P.O. Box 7777-W7615
Philadelphia, Pennsylvania 19175-7615

83. Respondents shall write "Brandt Pike Oil Pipeline and Distribution Facilities" and FPN: E07508on the face of the check. Respondents shall send simultaneously a copy of the check to the OSC.

84. If the parties resolve a dispute over costs before payment is due, EPA will adjust the amount due as necessary. If the parties do not resolve the dispute before payment is due, Respondents shall pay the uncontested costs to the USCG as specified above on or before the due date. Within the same time period, Respondents shall pay the contested costs into an interest-

bearing escrow account. Respondents simultaneously shall transmit a copy of both checks to the OSC. Respondents shall ensure that the prevailing party in the dispute receives the amount upon which it prevailed from the escrow funds plus interest within twenty (20) days of the conclusion of dispute resolution.

IX. DISPUTE RESOLUTION

85. Respondents shall raise any disputes concerning the Work required under this Order to EPA, in writing, within fifteen (15) days after receiving written notice from EPA regarding any aspect of the Work required under this Order that Respondents dispute. EPA and Respondents shall expeditiously and informally attempt to resolve any disagreements. EPA and Respondents' Project Coordinators shall first confer in an effort to resolve the dispute. If the Project Coordinators are unable to informally resolve the dispute within seven (7) days of the first conference, Respondents shall notify EPA in writing of their objections within fourteen (14) days of the first conference. Written objections shall identify Respondents' objections, state the basis for those objections, and provide all data, analyses and information relied upon by Respondents. EPA and Respondents then have an additional fourteen (14) days from EPA's receipt of the written objections to reach agreement. If an agreement is not reached within the fourteen (14) days, Respondents may request in writing, within five (5) days thereafter, a determination resolving the dispute by EPA Region 5's Superfund Division Director. The request should provide all information that Respondents believe is relevant to the dispute. If such request is submitted within this seven (7) day period, the Division Director shall issue a determination in writing. EPA's final decision shall be incorporated into and become an enforceable part of this Order and shall no longer be subject to dispute pursuant to this Order. Respondents shall proceed in accordance with the Division Director's decision regarding the matter in dispute, regardless of whether Respondents agree with the decision. If Respondents do not agree to perform or do not actually perform the Work in accordance with EPA's decision, EPA reserves the right in its sole discretion to conduct the Work itself, seek reimbursement from Respondents, seek enforcement of this Order, seek stipulated penalties, and/or any other appropriate relief. Any disputes arising under this Order are not subject to judicial review until such time as EPA seeks to enforce this Order.

86. If EPA and Respondents reach agreement on the dispute at any stage, the agreement shall be set forth in writing and shall, upon signature of both parties, be incorporated into and become an enforceable part of this Order.

87. The existence of a dispute and EPA's consideration of matters placed in dispute shall not excuse, toll, or suspend any compliance obligation or deadline required pursuant to this Order during the pendency of the dispute resolution process except as agreed by EPA in writing. The invocation of dispute resolution does not stay the accrual of stipulated penalties under this Order.

X. FORCE MAJEURE

88. Respondents agree to perform all requirements under this Order within the time limits established under this Order, unless the performance is delayed by a force majeure. For purposes of this Order, a force majeure is defined as any event arising from causes beyond the control of Respondents, or any entity controlled by Respondents or Respondents' contractors, which delays or prevents performance of any obligation under this Order despite Respondents' best efforts to fulfill the obligation. The requirement that the Respondents exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event: (1) as it is occurring, and (2) following the potential force majeure event, such that the delay is minimized to the greatest extent possible. Force majeure does not include financial inability to complete the Work, increased cost of performance or changes in Respondents' business or economic circumstances.

89. If any event occurs or has occurred that may delay the performance of any obligation under this Order, whether or not caused by a force majeure event, Respondents shall orally notify EPA within forty-eight (48) hours of when Respondents knew or should have known that the event might cause a delay. Such notice shall: (1) identify the event causing the delay, or anticipated to cause delay, and the anticipated duration of the delay; (2) provide Respondents' rationale for attributing such delay to a force majeure event; (3) state the measures taken or to be taken to prevent or minimize the delay; (4) estimate the timetable for implementation of those measures; and (5) state whether, in the opinion of Respondents, such event may cause or contribute to an endangerment to public health or the environment. Respondents shall undertake best efforts to avoid and minimize the delay. Failure to comply with the notice provision of this paragraph and to undertake best efforts to avoid and minimize the delay shall waive any claim of force majeure by Respondents. Respondents shall be deemed to have notice of any circumstances of which its contractors had or should have had notice.

90. If EPA determines that a delay in performance or anticipated delay in fullfilling a requirement of this Order is or was attributable to a force majeure, then the time period for performance of that requirement will be extended as deemed necessary by EPA. If EPA determines that the delay or anticipated delay has been or will be caused by a force majeure, then EPA will notify Respondents, in writing, of the length of the extension, if any, for performance of such obligations affected by the force majeure. Any such extensions shall not alter Respondents' obligation to perform or complete other tasks required by this Order which are not directly affected by the force majeure.

91. If EPA disagrees with Respondents' assertion of a force majeure, then Respondents may elect to invoke the dispute resolution provision, and shall follow the procedures set forth in Section IX (Dispute Resolution). In any such proceeding, Respondents shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that Respondents' best efforts were exercised to avoid and mitigate the effects of the delay, and that Respondents complied with the requirements of this

section. If Respondents satisfy this burden, then EPA will extend the time for performance as EPA determines is necessary.

XI. STIPULATED AND STATUTORY PENALTIES

92. For each day, or portion thereof, that Respondents fail to comply timely with any requirement of this Order, Respondents shall pay stipulated penalties as follows:

Penalty per violation per day and period of violation

	1 -10 DAYS	11 - 30 DAYS	31 - 60 DAYS	OVER 60 DAYS
Failure to meet a major milestone	$ 1,000	$ 1,500	$ 3,000	$ 6,500

For the purposes of this Paragraph, "major milestone" shall include:

(a) those milestones identified in Appendix C;
(b) the Respondents' obligations pursuant to Paragraphs 57, 60-63, 67-69 and 73-74;
(c) the Respondents' obligations under Paragraphs 81and 84 to pay costs and
(d) the due dates identified in EPA approved work plans.

93. Respondents shall pay any stipulated penalties within twenty (20) days of receiving EPA's written demand. Respondents shall pay interest on late payments and use the payment method specified in Section VIII of this Order (Reimbursement of Costs).

94. Separate penalties shall accrue simultaneously for separate violations of this Order. Penalties accrue per violation, per day. Penalty payment shall not alter Respondents' obligations to perform the Work required under this Order. Stipulated penalties shall accrue, but need not be paid, during any dispute resolution period concerning the particular violation at issue. However, stipulated penalties shall not accrue with respect to a decision by the Director of the Superfund Division, Region 5, under Paragraph 85 of Section IX (Dispute Resolution), during the period, if any, beginning on the date that Respondents submit a written notice requesting review by the Director of the Superfund Division, Region 5 until the date that the Director issues a final decision regarding such dispute. If Respondents prevail upon resolution, Respondents shall pay only the penalties that the resolution requires, if any.

95. Nothing in this Order shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of any Respondent's violation of this Order or of the statutes and regulations upon which it is based, including, but not limited to, Section 7003(b) of RCRA, 42 U.S.C. § 6973(b), or Section 311(e) of the CWA, 33 U.S.C. § 1321(e), as adjusted by the Debt Collection Improvement Act of 1996, 31

U.S.C. § 3701. Any EPA determination to seek statutory penalties shall not be subject to dispute resolution under this Order. Should Respondents violate the Order, EPA may carry out the required actions unilaterally under Section 311(c) of the CWA, 33 U.S.C. § 1321(c), and may seek judicial enforcement of the Order under Section 311(e) of the CWA, 33 U.S.C. § 1321(e) and Section 7003(b) of RCRA, 42 U.S.C. § 6973(b).

XII. OTHER CLAIMS

96. This Order does not limit or affect the rights of the parties against any third party, nor does it limit the rights of third parties.

XIII. INDEMNIFICATION

97. Respondents agree to indemnify, save and hold harmless the United States, its agencies, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action: (a) arising from, or on account of, acts or omissions of Respondents, Respondents' directors, officers, employees, agents, successors, assigns, heirs, trustees, receivers, contractors, or consultants in carrying out actions pursuant to this Order; and (b) for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondents and any persons for performance of the Work on or relating to the Brandt Pike Oil Pipeline and Distribution Facilities or Study Area, including claims on account of construction delays. In addition, Respondents agree to pay the United States all costs incurred by the United States, including litigation costs arising from or on account of claims made against the United States based on any of the acts or omissions referred to in the preceding sentence. Nothing in this Order, however, requires Respondents to indemnify the United States for any claim or cause of action based on negligent action taken solely and directly by EPA (not including oversight or approval of Respondents' plans or activities).

XIV. COVENANT NOT TO SUE BY EPA

98. In consideration of the actions that will be performed under this Order and the payments that will be made by Respondents under the terms of this Order, and except as otherwise specifically provided in this Order, EPA releases and covenants not to sue or take administrative action against Respondents pursuant to RCRA or CWA for performance of the Work or for recovery of Response Costs. This release and covenant not to sue shall take effect upon the Effective Date and are conditioned upon the complete and satisfactory performance by Respondents of all obligations under this Order, including, but not limited to, payment of Response Costs. This release and covenant not to sue extend only to Respondents as defined herein and do not extend to any other person.

XV. RESERVATION OF RIGHTS BY EPA

99. Except as specifically provided in this Order, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect

b. any claim arising out of the Work or arising out of the response actions for which the Response Costs have or will be incurred, including any claim under the United States Constitution, the Ohio Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law.

XVII. CONTRIBUTION

103. The Parties agree that nothing in this Order limits or in any other way affects any protection from contribution actions or claims under the CWA, RCRA, and OPA, to which Respondents may be entitled pursuant to Federal and State statutes and common law for the matters addressed in this Order. The "matters addressed" in this Order are the Work performed by Respondents pursuant to this Order and any Response Costs paid by Respondents under this Order. Nothing in this Order precludes the United States or Respondents from asserting any claims, causes of action, or demands against any persons not Parties to this Order for indemnification, contribution, or cost recovery.

XVIII. MODIFICATIONS

104. The OSC may modify any plan or schedule in writing. The Parties may modify any other requirement of this Order in writing by mutual agreement.

105. Additional persons may consent to be added as Respondents subject to this Order by agreeing to assume the same obligations imposed on the other Respondents and signing an appropriate addendum to this Order. Any such addendum shall be signed by all Parties to the Order to become effective.

106. If Respondents seek permission to deviate from any approved plan or schedule, Respondents' Project Coordinator shall submit a written request to the OSC for approval outlining the proposed modification and its basis.

107. No informal advice, guidance, or comment by the OSC regarding reports, plans, schedules, or any other writing submitted by Respondents will alter Respondents' obligations to obtain formal approval as may be required by this Order, and to comply with all requirements of the Order unless it is formally modified.

XIX. TERMINATION and NOTICE OF COMPLETION

108. The provisions of this Order shall be deemed terminated and satisfied by Respondents upon written notice from EPA that Respondents have demonstrated that all of the terms of this Order, including any additional work as may be performed pursuant to Paragraph 79 (Additional Work) and any stipulated penalties demanded by EPA under Section XI (Penalties), have been addressed to the satisfaction of EPA. Termination of this Order shall not terminate Respondents' obligation to comply with: Paragraph 67-76 (Sampling, Access and Data

Availability and Record Retention); XV (Reservation of Rights); and XIII (Indemnification) of this Order.

XX. SEVERABILITY/INTEGRATION/APPENDICES

109. If a court issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated or determined to be subject to a sufficient cause defense by the court's order.

110. This Order and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Order. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Order. The following appendices are attached to and incorporated into this Order:

Appendix A: Brandt Pike Oil Pipeline and Distribution Facilities Map
Appendix B: Study Area Map
Appendix C: List of Major Deliverables and Schedule for Major Deliverables

XXI. PUBLIC REVIEW OF ADMINISTRATIVE RECORD

111. The administrative record supporting the issuance of this Order will be available for public review at EPA's offices at 77 West Jackson Boulevard, Chicago, Illinois on Mondays through Fridays, from 8:30 a.m. to 5:00 p.m. by contacting:

Janet Pfundheller
U.S. EPA, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604-3590

XXII. PUBLIC COMMENT AND EFFECTIVE DATE

112. Immediately upon issuance of this Order, EPA will announce the availability of this Order to the public for review and comment. EPA will accept comments from the public for a period of thirty (30) calendar days after such announcement. If sufficient interest warrants, as determined by EPA, a public meeting will be held. After consideration of any comments submitted during a public comment period of not less than thirty (30) days (which EPA may extend), EPA may withhold consent or seek to amend all or part of this Order if EPA determines that comments received disclose facts or considerations which indicate that this Order is inappropriate, improper, or inadequate. If EPA withholds consent or seeks to amend all or part of this Order due to comments, this Order as written would not become effective.

XXIII. NO FINAL AGENCY ACTION

113. Notwithstanding any other provisions of this Order, no action or decision by EPA shall constitute final agency action giving rise to any rights to judicial review prior to EPA's initiation of judicial action to compel Respondents' compliance with the mandate(s) of this Order.

XXIV. SIGNATORIES

114. The undersigned representative of each Respondent, the EPA Region 5 Superfund Division Director and the EPA Region 5 Land and Chemicals Division Director certifies that he or she is authorized to enter into the terms and conditions of this Order and to execute and bind legally such Party to this document.

BP Products North America Inc., on behalf of itself and its related companies named herein, enters into this Consent Order in the matter of the Brandt Pike Oil Pipeline and Distribution Facilities.

BY: Lori O'Washington DATE: 9-4-2007

TITLE: Deputy Region Manager
on behalf of BP Products North America.

Inland Corporation, on behalf of itself and its related companies named herein, enters into this Consent Order in the matter of the Brandt Pike Oil Pipeline and Distribution Facilities.

BY: _____ DATE: 9/13/2007

TITLE: President, Inland Corporation

Sunoco, Inc. (R+M), on behalf of itself and its related companies named herein, enters into this Consent Order in the matter of the Brandt Pike Oil Pipeline and Distribution Facilities.

BY: _____ DATE: 9/11/07

TITLE: Mgr- Marketing Environmental Services

BP Oil Pipeline Company, on behalf of itself and its related companies named herein, enters into this Consent Order in the matter of the Brandt Pike Oil Pipeline and Distribution Facilities.

BY: Dan O Washburn DATE: 9-4-2007

TITLE: Deputy Region Manager
on behalf of BP Pipelines (North America)

Buckeye Terminals, LLC on behalf of itself and its related companies named herein, enters into this Consent Order in the matter of the Brandt Pike Oil Pipeline and Distribution Facilities.

BY: _____ DATE: September 12, 2007

TITLE: Vice President and General Counsel

_____on behalf of itself and its related companies named herein, enters into this Consent Order in the matter of the Brandt Pike Oil Pipeline and Distribution Facilities.

BY:_____ DATE:_____

TITLE: _____

signature page unused

CITGO Petroleum Corp. on behalf of itself and its related companies named herein, enters into this Consent Order in the matter of the Brandt Pike Oil Pipeline and Distribution Facilities.

BY: _____ DATE: 9/11/07

TITLE: Gen Terminal Facilities Mgr/Ls

_____, on behalf of itself and its related companies named herein, enters into this Consent Order in the matter of the Brandt Pike Oil Pipeline and Distribution Facilities.

BY: _____ DATE:_____

TITLE: _____

Signature page unused

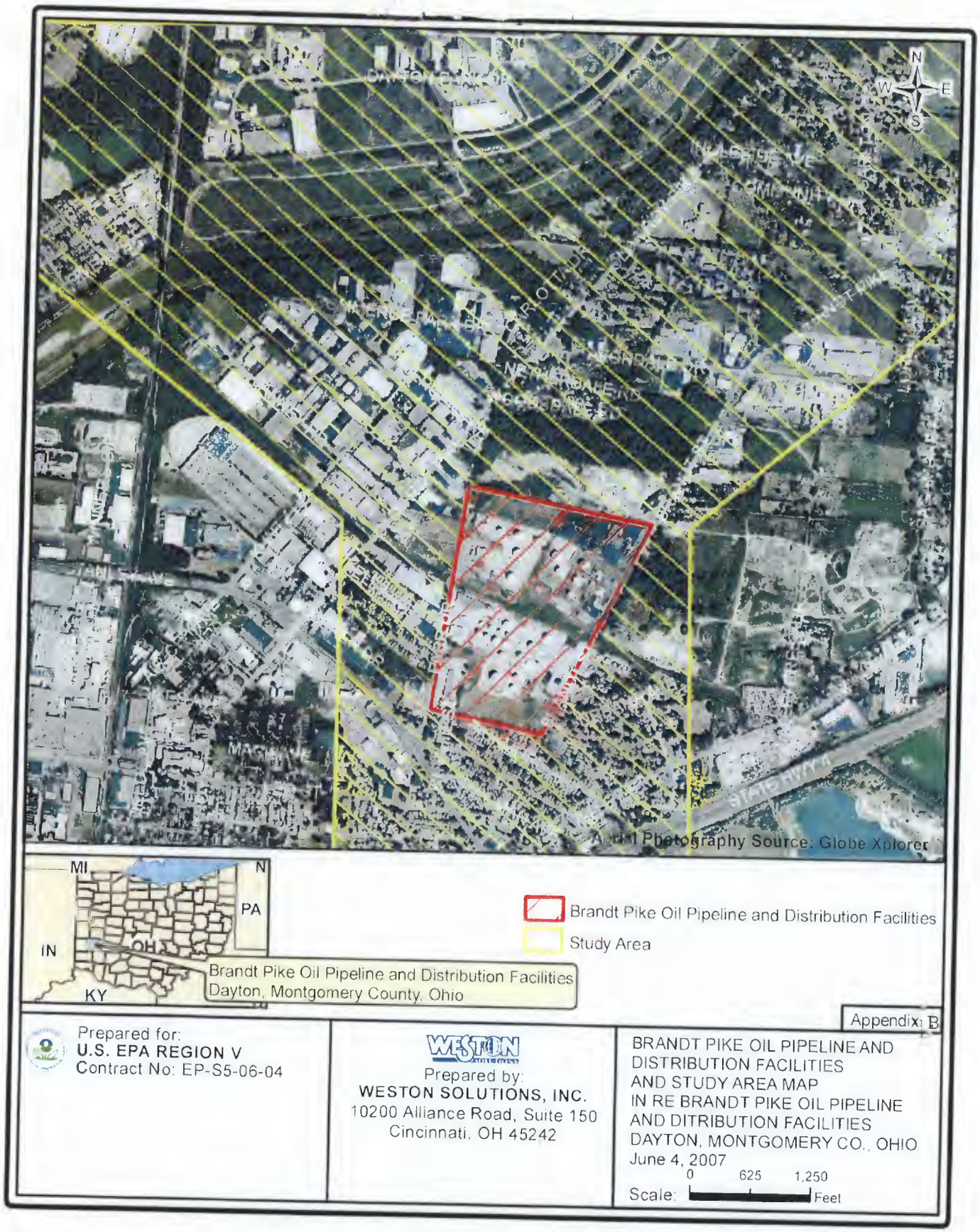
IT IS SO ORDERED AND AGREED:

BY:_____ DATE: 9/18/07
for Richard C. Karl
Director, Superfund Division
United States Environmental Protection Agency
Region 5

BY:_____ DATE: 9/20/07
Margaret M. Guerriero
Director, Land and Chemicals Division
United States Environmental Protection Agency
Region 5

Appendix A
Brandt Pike Oil Pipeline and Distribution Facilities Map

Appendix B
Map of Study Area



Appendix C: Schedule of Work and Major Deliverables

Item	Deliverable	No. of copies	Due Date
Para. 70	Monthly Progress Reports	2 - U.S. EPA 1- OEPA, 1-City	15th day of each month following effective date of Order
Para. 57a.	Investigation and Fate and Transport Evaluation Work Plan	same	45 days from effective date of Order
Para. 57a.	Implement Investigation Work		Complete investigation in accord with EPA approved schedule
Para 57a.	Field Investigation Report	same	60 days from receipt of analytical data from the Investigation
Para. 57c.	Vapor Intrusion Work Plan (if trigger is met)	same	60 days from submittal of Field Investigation Report
Para. 57c.	Implement Vapor Intrusion Investigation		Commence 30 days from EPA approval of Vapor Intrusion Work Plan
Para. 57c.	Vapor Intrusion Investigation Report	same	60 days from receipt of analytical data from the investigation
Para. 57b.	Fate and Transport Report	same	90 days from submittal of Field Investigation Report